

State of Arizona
Senate
Fifty-third Legislature
First Regular Session
2017

CHAPTER 336
SENATE BILL 1292

AN ACT

AMENDING SECTIONS 41-1545, 41-1545.02 AND 41-1545.05, ARIZONA REVISED
STATUTES; RELATING TO THE ARIZONA COMPETES FUND.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 41-1545, Arizona Revised Statutes, is amended to
3 read:

4 41-1545. Definitions

5 In this article, unless the context otherwise requires:

6 1. "Arizona basic enterprise" means any enterprise that is located
7 or principally based in this state and that can provide demonstrable
8 evidence that it meets one or more of the following:

9 (a) It is primarily engaged in one or more of the Arizona basic
10 industries.

11 (b) It is the national or regional corporate headquarters of an
12 Arizona basic industry or the corporate or regional headquarters of a
13 multistate enterprise that is primarily engaged in out-of-state industrial
14 activities.

15 (c) It is primarily engaged in developing or producing goods or
16 providing services for out-of-state sale.

17 2. "Arizona basic industry" means any of the following:

18 (a) Manufacturing industries identified by North American industry
19 classification system code sectors 31, 32 and 33.

20 (b) Producing goods or services that derive at least sixty-five ~~per~~
21 ~~cent~~ PERCENT of revenue from out-of-state sales.

22 (c) Research and development of new products, processes or
23 technologies.

24 (d) National or regional headquarters or back-office operations
25 supporting a national or regional company.

26 (e) Warehouse distribution operations identified by North American
27 industry classification system code sector 42 if sixty-five ~~per cent~~
28 PERCENT of inventory is shipped out of state.

29 3. "Authority" means the Arizona commerce authority.

30 4. "Employee" means a person employed in a new job.

31 5. "Employer" means an Arizona basic enterprise providing new jobs
32 in conjunction with a project, except that the following do not qualify
33 for the purposes of this article:

34 (a) Any corporation, partnership or other entity conducting a
35 business identified by any of the following North American industry
36 classification system code groups, sectors or subsectors:

37 (i) Industry group 7132 or 8131.

38 (ii) Sector 44, 45, 61, 92 or 221, including water and sewer
39 services.

40 (iii) Subsector 722.

41 (b) Any corporation, partnership or other entity that is delinquent
42 in the payment of any unprotested taxes or other amounts due to the
43 federal government, this state or any political subdivision of this state.

1 (c) Any corporation, partnership or other entity that is currently
2 in bankruptcy or has publicly announced its intention to file for
3 bankruptcy protection.

4 6. "Full-time" means permanent employment for at least one thousand
5 seven hundred fifty hours per year.

6 7. "Headquarters" means a principal central administrative office
7 where primary headquarters related functions and services are performed,
8 including financial, personnel, administrative, legal, planning and
9 similar business functions.

10 8. "MICROENTERPRISE" MEANS ANY BUSINESS THAT IS LOCATED OR
11 PRINCIPALLY BASED IN THIS STATE AND THAT EMPLOYS TEN OR FEWER EMPLOYEES.
12 MICROENTERPRISE INCLUDES A START-UP BUSINESS, A HOME-BASED BUSINESS AND A
13 SELF-EMPLOYED BUSINESS.

14 ~~8.~~ 9. "New job" means full-time employment in a new or expanding
15 Arizona basic enterprise that pays an average annual wage equal to at
16 least one hundred ~~per cent~~ PERCENT of the median wage by county as
17 determined annually by the Arizona commerce authority and includes health
18 insurance for employees for which the employer pays at least sixty-five
19 ~~per cent~~ PERCENT of the premium or membership cost, but not including jobs
20 of recalled workers or existing jobs that are vacant or other jobs that
21 formerly existed in the enterprise in this state.

22 ~~9.~~ 10. "Primarily engaged" means at least one-half of the gross
23 income of the enterprise is derived from the engagement.

24 Sec. 2. Section 41-1545.02, Arizona Revised Statutes, is amended to
25 read:

26 41-1545.02. Grants from the Arizona competes fund

27 A. The chief executive officer may negotiate the award of monies
28 from the Arizona competes fund. The monies shall be paid, by grant, for
29 the purposes of:

30 1. Attracting, expanding or retaining Arizona basic enterprises
31 that meet the requirements prescribed by subsection B of this section,
32 that achieve the performance and qualification targets developed under
33 subsection C of this section and that enter into an agreement with the
34 chief executive officer as provided by subsection C of this section. In
35 awarding monies pursuant to this paragraph, the chief executive officer
36 shall give preference to job training and infrastructure activities that
37 create private sector jobs.

38 2. Supporting and advancing programs and projects for
39 MICROENTERPRISES, rural businesses, small businesses and business
40 development that enhance economic development.

41 B. To be eligible to receive a deal closing grant under subsection
42 A, paragraph 1 of this section, an applicant must:

1 1. Be in good standing under the laws of the state in which the
2 applicant was formed or organized, as evidenced by a certificate issued by
3 the secretary of state or other state official having custody of the
4 records pertaining to entities or other organizations formed under the
5 laws of that state.

6 2. Owe no delinquent taxes to a taxing jurisdiction in this state.

7 3. Qualify as an Arizona basic industry.

8 4. Pay compensation that exceeds, on average, one hundred percent
9 of the median wage by county as determined annually by the authority.

10 5. Include health insurance for employees for which the applicant
11 pays at least sixty-five percent of the premium or membership cost.

12 6. Demonstrate by analysis by an independent third party that
13 estimated income, property and transaction privilege tax and government
14 fee revenues in this state will exceed state incentives.

15 C. Before awarding a grant from the fund under this section, the
16 chief executive officer must enter into a written agreement with the
17 applicant specifying that:

18 1. A reasonable percentage of the total amount of the grant may be
19 withheld until the recipient meets specified performance targets.

20 2. If the chief executive officer finds that the grant recipient
21 has not met each of the performance targets specified in the agreement as
22 of a date stated in the agreement:

23 (a) The recipient must repay the grant and any related interest to
24 this state at an agreed rate and on agreed terms. The repayment may be
25 prorated to reflect partial attainment of performance targets.

26 (b) The chief executive officer shall not disburse any remaining
27 grant money to the recipient under the agreement.

28 (c) The chief executive officer may assess specified penalties
29 against the recipient for noncompliance.

30 3. If any part of the grant is used to build a capital improvement,
31 this state may:

32 (a) Retain a lien or other security interest in the improvement in
33 proportion to the percentage of the grant amount used to pay for the
34 improvement.

35 (b) Require the recipient, if the improvement is sold, to:

36 (i) Repay to this state the grant monies used to pay for the
37 improvement, with interest at a rate and according to terms stated in the
38 agreement.

39 (ii) Share with this state a proportionate amount of any profit
40 realized from the sale.

41 D. The chief executive officer must determine:

42 1. The performance targets and dates required to be included in
43 each grant agreement.

1 2. If the grant agreement includes withholding a percentage of the
2 grant until the recipient meets the performance targets, the percentage of
3 the grant money to be withheld.

4 E. Before awarding a grant from the fund under this section, the
5 authority must prepare a written statement, signed by the chief executive
6 officer, that, specifically and in detail, assesses the direct economic
7 impact of the grant. The statement must:

8 1. Include a finding that the enterprise is clearly in the best
9 interests of this state.

10 2. Set forth the evidence and reasons supporting this finding,
11 including:

12 (a) The estimated annual tax revenue accruing to this state and its
13 political subdivisions as a direct or indirect result of the enterprise.

14 (b) The public benefit of the enterprise from the employment base,
15 including the estimated number and the median wage of jobs to be created
16 in this state by the potential recipient each year.

17 (c) The extent to which the economic development from the
18 enterprise will raise the standard of living of affected persons,
19 increases free enterprise growth and increases the quality of life in this
20 state.

21 (d) The ratio of economic benefit from wages paid and capital
22 investment made by the enterprise to the amount of the grant.

23 (e) The contribution from the enterprise to the growth of existing
24 businesses and creation of new businesses and business clusters.

25 (f) Whether the enterprise will provide its employees with benefits
26 such as retirement, child care, educational reimbursements and training.

27 (g) The percentage of the products or services the enterprise will
28 export outside of this state over the first five years of operation.

29 (h) Any other information the chief executive officer considers to
30 be necessary for inclusion in the statement.

31 F. Beginning from and after June 30, 2017, on the last day of each
32 fiscal year, thirty percent of the monies appropriated to the fund in the
33 fiscal year, minus the amount of grants awarded in the fiscal year for the
34 purposes prescribed in subsection A, paragraph 2 of this section, not to
35 exceed the unencumbered monies in the fund on the last day of the fiscal
36 year, are reserved for grants for the purposes prescribed in subsection A,
37 paragraph 2 of this section. **OF THE AMOUNT RESERVED FOR GRANTS UNDER THIS
38 SUBSECTION, THIRTY PERCENT OR AN AMOUNT NOT TO EXCEED ONE MILLION DOLLARS
39 SHALL BE USED FOR GRANTS TO SUPPORT AND ADVANCE MICROENTERPRISE
40 DEVELOPMENT IN THIS STATE.**

41 G. In addition to the monies reserved pursuant to subsection F of
42 this section, at least twenty-five percent of the monies appropriated to
43 the fund each year shall be reserved to support and advance activities and
44 projects for businesses located in a county with a population of less than
45 two million persons or on tribal lands, or both. Monies not awarded

1 pursuant to this subsection within nine months after the beginning of the
2 fiscal year may be awarded to activities and projects for businesses that
3 are located in any county. In awarding monies reserved pursuant to this
4 subsection, the chief executive officer shall give priority to a county
5 that is located along the Arizona-Mexico border or a county in which a
6 military facility is located or to projects located on tribal lands.

7 Sec. 3. Section 41-1545.05, Arizona Revised Statutes, is amended to
8 read:

9 41-1545.05. Program termination

10 The program established by this article ends on July 1, ~~2018~~ 2026.

APPROVED BY THE GOVERNOR MAY 22, 2017.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 22, 2017.